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APPLICATION NO.	FILING DA	TÉ	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,599	03/03/2005		Jean-Michel Claude Edouard Beaudouin	5529	7397
7590 01/30/2008				EXAMINER	
Shoemaker and	l Mattare	MIGGINS, MICHAEL C			
10 Post Office Road Suite 100 Silver Spring, MD 20910				ART UNIT	PAPER NUMBER
				1794	
				MAIL DATE	DELIVERY MODE
•				01/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

· ·		Application No.	Applicant(s)				
		10/511,599	BEAUDOUIN ET AL.				
	Office Action Summary	Examiner	Art Unit				
		Michael C. Miggins	1794				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHO WHIC - Exter after - If NO - Failu Any r	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING Donsions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. Period for reply is specified above, the maximum statutory period to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status							
1)⊠	Responsive to communication(s) filed on <u>03 M</u>	larch 2005.					
2a) <u></u> □	This action is <b>FINAL</b> . 2b)⊠ This	action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims						
5)□ 6)⊠ 7)□	Claim(s) <u>9-16</u> is/are pending in the application 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed.  Claim(s) <u>9-16</u> is/are rejected.  Claim(s) is/are objected to.  Claim(s) are subject to restriction and/or control of the	wn from consideration.					
Applicati	ion Papers						
10)	The specification is objected to by the Examine The drawing(s) filed on is/are: a) acc Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Example 1.	epted or b) objected to by the drawing(s) be held in abeyance. Section is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).				
Priority u	ınder 35 U.S.C. § 119						
12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.							
2) Notice 3) Information	t(s)  te of References Cited (PTO-892)  te of Draftsperson's Patent Drawing Review (PTO-948)  mation Disclosure Statement(s) (PTO/SB/08)  tr No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate				

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### **DETAILED ACTION**

## Claim Rejections - 35 USC § 112

- 1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 2. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 3. Claim 16 recites the limitation "it" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 16 recites the phrase "a certain distance" which renders the claim indefinite because the metes and bounds of the claim are not clearly defined. One of ordinary skill in the art reading the claim would have no idea what a certain distance is.

### Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clevenger (US 4528228, cited by applicant) in view of Holland (US 5334623, cited by applicant).

Clevenger discloses a packaging material comprising two plies (13 and 14 from Fig. 1 and column 4, lines 1-17) defining between them a cavity (column 4, lines 1-17) and a substance capable of retaining gases in its environment disposed in the cavity (11 from Fig. 1 and column 4, lines 1-36).

Clevenger fails to disclose at least one of the plies being made of a material permeable to gaseous ethylene and impermeable to water vapor.

Holland discloses a ply being made of a material permeable to gaseous ethylene and impermeable to water vapor (column 1, lines 4-8, column 1, line 61 through column 2, line 35) which is formed into films for use in fruit packaging for the purpose of extending the storage life of fruits and other fauna.

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided at least one of the plies being made of a material permeable to gaseous ethylene and impermeable to water vapor in the packaging material of Clevenger in order to extend the storage life of fruits and other fauna.

With regard to claim 10, it would have been obvious to have made both plies of Clevenger with the material of Holland in order to extend the storage life of fruits and other fauna.

Clevenger discloses a package wherein the two plies are made of the same material, wherein the substance is bonded to one of the plies and wherein the substance is at a certain distance from the substance of the packaging material (column 4, lines 1-36).

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Holland discloses a film (or ply) wherein the material has open pores (since it is permeable to ethylene thus containing pores however small they might be) with electrical polarity (column 1, line 61 through column 2, line 35).

With regard to claim 15, neither reference specifically discloses the packaging of vegetable matter but Clevenger discloses the package may be used with other produce (column 1, line 18-20) and thus the package is clearly capable of use with vegetable matter and it would be obvious to package vegetable matter in order to extend the storage life of the vegetable matter.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hruby (US 1601625) is cited as relevant art for its disclosure of fruit packaging.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Miggins Primary Examiner

Art Unit 1794

MCM November 13, 2007